IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6612 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER,G.S.R.T.CORPORATION

Versus

SHRI DITAJI BIMAJI LATA

Appearance:

MR HARDIK C RAWAL for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/06/2000

ORAL JUDGEMENT

1. The respondent-workman was a conductor in the services of the S.T. Corporation. On 16-1-1981, while he was on Veraval to Kotada route, the bus was checked at a place called Tamrej and at that time it was found that to many of the passengers though he had taken money but the tickets were not issued. The chargesheet was given to this effect to the workman vide memo dated 7-3-1981. Reply to the chargesheet has been filed. After holding an inquiry, the charge levelled against the

workman-respondent were found proved and he was dismissed from the services. The workman raised an industrial dispute and under the impugned award, the Corporation was directed to reinstate him back in service to his original post with continuity of service but without backwages. Hence, this special civil application.

2. Learned counsel for the petitioner contended that the award is wholly perverse. He submits that the Labour Court has found as a fact that it is a case of misconduct committed by the workman but still it has interfered in the matter and the award has been made in favour of the workman. In his submission, in the inquiry the workman has not examined the reporter nor he has produced any defence. The workman has not raised the point that the inquiry is not fair and valid. After inquiry was accepted to be fair, the Labour Court has exceeded its jurisdiction to interfere in the matter on giving benefit of doubt to the workman. It has next been contended that the standard of proof in the inquiry is not that of beyond reasonable doubt. This standard has been applied and as such it is a clear case of error apparent on the fact of the award. Concluding his submissions, it is submitted that no punishment has been given to the workman-respondent. Non award of the backwages is not a punishment.

3. Nobody is present on behalf of the respondent.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner and I am satisfied that the award of the Labour Court is wholly perverse. During the inspection of the bus, the statement of passengers were recorded. It is not a case of the respondent-workman that road booking in the bus is permissible. From internal page No.6 of the award, I find that the Labour Court has found that merely on statements of the passengers, it seems that fare was given to the workman but tickets were not issued to them. Reply to the show-cause notice has also not been filed by the respondent-workman. He has merely denied the allegations. The finding given by the Labour Court, " as the road booking was going on, it was not possible that the passengers were without tickets" is wholly perverse. Here the passengers statements have been recorded and which have also been relied in the inquiry and the Labour Court has also accepted the inquiry to be fair, in this fact this was said is certainly a perverse finding. In the presence of the statements of the passengers, the finding recorded by the Labour Court that there is not proof to show that the

passengers have given the fare is again a piece of perverse finding. In the earlier part of the judgment, at the cost of repetition it is to be stated that, referring to the statements of the passengers it has given a finding that it seems that the fare was given to the workman but tickets were not issued. Another perverse finding has been recorded by the Labour Court that one thing is clear that the passengers in order to escape from fine might have given wrong statements. This inference drawn by the Labour Court is without there being any basis for the same. It is a case where the Labour Court has proceeded with the sole object and purpose to extend the benefit to the workman. From the awards which are coming up before this court, I find that the Labour Courts are under a misconception of law that as these are the Labour Courts, are meant for labourers, relief has to be granted to this class. In the facts of this case where on inspection of the bus, the passengers were found without tickets though made the payment of the fare to the workman and even if it is taken that cash was not checked it is hardly of any material and substance more so where no fault is found with the inquiry by the Labour Court. The standard of proof is not necessarily to be beyond reasonable doubt, but that has been applied in the present case and as a result of which relief has been granted to the workman. It is found by the Labour Court that the respondent-workman was negligent and to teach him a lesson, lighter punishment should be given. Even that has not been done. It is to be stated at the cost of repetition that non-grant of backwages is not a punishment. It is a case where this workman has misappropriated the Corporation money. It is not a punishment in the facts of the case which can be said to be shocking to the judicia conscience of the Courts. In the facts of this case only punishment could have been for this misconduct proved in the inquiry of dismissal or removal of the workman from the services. Earlier also, there were 23 defaults. Taking into consideration all these facts, the award of the Labour Court cannot be allowed to stand.

5. In the result, this special civil application succeeds and the same is allowed and the order of the Labour Court dated 1-10-1986 in Reference (LCR) No.991 of 1984 is quashed and set aside. Rule is made absolute. As none present for the respondent, no order as to costs.

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